

Docket No.: 51865-012

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Peter T. ROBERTSON, et al.

Serial No.: CIP of U.S. Serial No.  
09/452,126, filed on 12/1/99

Group Art Unit: Unknown

Filed: June 23, 2003

Examiner: Unknown

For: RISK CLASSIFICATION METHODOLOGY

**PETITION TO MAKE SPECIAL UNDER 37 CFR § 1.102(d)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 2213-1450

Sir:

Applicant hereby petitions to make special the above-identified application in accordance with 37 CFR § 1.102(d). Pursuant to MPEP § 708.02(VIII), Applicant complies with each of the following items:

**A. FEE**

Please charge Deposit Account 500417 the amount of \$130.00 as set forth in 37 CFR § 1.17(i) to cover the fee for the present Petition to Make Special.

06/25/2003 RMEBRAHT 00000065 500417 09452126  
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**B. SINGLE INVENTION**

If the Office determines that all the claims presented are not obviously directed to a single invention, Applicants will make an election without traverse and hereby invites the Examiner to contact the undersigned Applicants' representative for a telephonic election.

**C. PRE-EXAMINATION SEARCH**

Applicants submit that **multiple pre-examination searches** have been made. The field of search covers Class 434, subclass 236, 238; Class 704, subclass 3; Class 705, subclass 4, 7, 10, 11; Class 395, subclass 760; Class 364, subclass 401. The latest pre-examination search was performed by B. Y. Mathis (Reg. No. 44,939).

**D. ONE COPY OF REFERENCES**

Copies of the references from the pre-examination search are made of record in the accompanying Information Disclosure Statement. Of these references, the following references are deemed, for purpose of this Petition, most closely related to the subject matter encompassed the claims:

1. U.S. Pat. No. 4,975,840 to DeTore *et al.*
2. U.S. Pat. No. 5,961,332 to Joao ("Joao I").
3. U.S. Pat. No. 6,283,761 to Joao ("Joao II").
4. U.S. Pat. No. 4,627,818 to Von Fellenberg.
5. U.S. Pat. No. 4,730,253 to Gordon.
6. U.S. Pat. No. 4,895,518 to Arnold *et al.*

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7. U.S. Pat. No. 5,551,880 to Bonnstetter *et al.*
8. U.S. Pat. No. 5,696,981 to Shovers.
9. U.S. Pat. No. 5,848,396 to Gerace.
10. U.S. Pat. No. 5,919,046 to Hull.
11. U.S. Pat. No. 5,933,800 to Zen *et al.*
12. U.S. Pat. No. 5,940,801 to Brown.
13. U.S. Pat. No. 5,991,735 to Gerace.
14. U.S. Pat. No. 6,002,994 to Lane *et al.*
15. U.S. Pat. No. 6,030,226 to Hersh.
16. U.S. Pat. No. 6,064,970 to McMillan *et al.*

**E. DETAILED DISCUSSION**

Applicants submits the following detailed discussion of the references deemed most closely related to the subject matter encompassed by the claims, pointing out, with the particularity required by 37 CFR § 1.11(b) and (c), how the claimed subject matter is patentable over the references.

The present invention relates to a methodology that addresses long-felt needs of the insurance industry to refine risk classifications of insuree using information that has heretofore been inaccessible: information about behavioral traits, such as personality and character traits, of a prospective insured that can directly influence insurance loss, such as automobile accident frequency and reporting.

In accordance with various embodiments of the present invention, data regarding the personality variables of the prospective insuree is collected by administering a questionnaire that includes a number of survey statements to which the prospective insuree indicates his agreement or disagreement. Even though the responses are subjectively reported, they are input to an objective evaluation processing in which, for example, a number of particular answers (such as an agreement) is counted. Depending on answers to the questions, the prospective insuree is classified into an appropriate risk group.

The questionnaire statements of the present disclosure provide information that strongly correlates to various insurance risks. However, in certain embodiments, various questionnaire statements can also perform "anti-faking" functions, which can provide insight about the veracity/accuracy of a prospective insuree.

As is discussed below, none of the references of record, individually or in combination, anticipates or makes obvious the claimed subject matter.

1. U.S. Pat. No. 4,975,840 to DeTore et al.

*DeTore* discloses a method and apparatus for evaluating life and health insurance risks using an expert system that contains a number of information databases. See, Abstract and col. 3, lines 41-44. In evaluating a risk related to life and health insurance, the *DeTore* device takes into account various medical issues including as blood pressure, syphilis and depression, as well as dangerous activities, such as scuba diving and mountain climbing. See, col. 10, lines 42-55.

a. *DeTore* Does Not Anticipate or Make Obvious Claims 1-10 and 13-20

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*DeTore* does not disclose, suggest or make obvious a method of risk classification related to any of automobile insurance, insurance covering malpractice of a medical professional, worker's compensation insurance, accident insurance and a likelihood of filing an insurance claim that includes accessing data regarding **personality traits**, as is recited in independent claim 1 and similarly recited in independent claims 13, 14, 17 and 18.

To the contrary, nowhere *DeTore* disclose or suggest using **personality trait** data (as the term is understood in the relevant industry) in assessing insurance risk.

As is stated in "DYSTHYMIA AND OTHER MOOD DISORDERS", The Harvard Mental Health Letter (May 1991) (see page 2, col. 2, par. 3 of attached copy), a "personality trait, by definition, is a **susceptibility to certain states of mind and an inclination to certain kinds of behavior[.]**" {bolded emphasis added} That is, while there is a relationship between personality traits and behavior, these concepts are as distinctly different as a cause (or a contributing factor) is to an effect (or a result). Accordingly, any overt behavior, such as taking part in avocations or performing habitual behavior, smoking cigarettes, drinking alcohol, abusing drugs, etc. cannot be reasonably interpreted by one of ordinary skill in the art as a "personality trait".

Similarly, it is well recognized in the psychological arts that "personality traits" are distinctively different concepts from mood disorders, such as depression. As discussed in the attached article (cited above), it is recognized that mood disorders are not forms of personality traits. To the contrary, it is recognized that susceptibility to mood disorders are influenced by personality traits in the manner that a particular outcome results from a single contributing factor. That is, a person may be "more likely to become depressed and slower to recover" from

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depression based on his/her personality type, but personality traits and mood disorders are different concepts.

Thus, *DeTore* does not anticipate or make obvious independent claims 1, 13, 14, 17 and 18. Further, *DeTore* does not anticipate or make obvious dependent claims 2-10, 15-16 and 19-20 by virtue of their dependency as well as for the additional features they recite.

b. *DeTore* Does Not Anticipate or Make Obvious Claims 11 and 12

*DeTore* does not disclose, suggest or make obvious a method of risk classification for automobile insurance that incorporates any of the four survey statements, e.g., "I don't find it particularly difficult to get along with loud mouthed, obnoxious people", as is recited in independent claims 11 and 12. To the contrary, nowhere *DeTore* disclose any particular statement remotely resembling the recited statements of independent claims 11-12. Thus, *DeTore* does not anticipate or make obvious independent claims 11-12.

c. *DeTore* Does Not Anticipate or Make Obvious Claims 21-23 and 28-33

*DeTore* does not disclose, suggest or make obvious a method of risk classification that includes applying an anti-faking technique to item answers, as recited in independent claim 21. In fact, *DeTore* is completely silent on issues of questionnaire faking or an insured's veracity. Thus, *DeTore* does not anticipate or make obvious independent claim 21. Further, *DeTore* does not anticipate or make obvious dependent claims 22-23 and 28-33 by virtue of their dependency as well as for the additional features they recite.

d. *DeTore Does Not Anticipate or Make Obvious Claims 24-27*

*DeTore* does not disclose, suggest or make obvious a method for risk classification of a prospective insured that includes accessing data regarding one or more character traits of the prospective insured to develop character trait data, as recited in independent claim 24. In fact, *DeTore* does not disclose using any character trait data, e.g., honesty, for any purpose related to risk classification. Thus, *DeTore* does not anticipate or make obvious independent claim 24. Further, *DeTore* does not anticipate or make obvious dependent claims 25-27 by virtue of their dependency as well as for the additional features they recite.

2. U.S. Pat. No. 5,961,332 to Joao ("Joao I")

*Joao I* discloses an apparatus for processing psychological data in order to diagnose an individual for existing psychological issues and to provide an appropriate treatment plan based on a particular diagnosis. See, Abstract. In operation, the *Joao I* apparatus can use a series of questionnaires related to a person's social problems, such as threats to well-being, education, job satisfaction and standard of living (col. 13, lines 1-12), as well as questions directed to medical factors and emotional/psychological reactivity (col. 13, lines 13-28), to form a "Data Analysis Spreadsheet" (DAS) that describes the person's state of mind. See, col. 14, lines 27+.

a. *Joao I Does Not Anticipate or Make Obvious Claims 1-20*

*Joao I* does not disclose, suggest or make obvious a method of risk classification related to any of (1) automobile insurance, (2) insurance covering malpractice of a medical professional, (3) worker's compensation insurance, (4) accident insurance and (5) a likelihood of filing an

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insurance claim, as is recited in independent claim 1 and similarly recited in independent claims 11-14, 17 and 18.

To the contrary, *Joao I* is directed solely to existing mental health disorders and their treatment. While *Joao I* does state that data collected can be "utilized in such a manner so as to yield vital actuarial data which may be made available to the payers of **mental health care** for actuarial purposes" {bolded emphasis added}, nowhere does *Joao I* disclose or suggest that any of its questionnaires may be useful for actuarial purposes related to any of automobile insurance, insurance covering malpractice of a medical professional, worker's compensation insurance, accident insurance and a likelihood of filing an insurance claim. See, col. 9, lines 20-34 and col. 44, lines 43-60.

Thus, *Joao I* does not anticipate or make obvious independent claims 1, 11-14, 17 and 18. Further, *Joao I* does not anticipate or make obvious dependent claims 2-10, 15-16 and 19-20 by virtue of their dependency as well as for the additional features they recite.

b. *Joao I* Does Not Anticipate or Make Obvious Claims 21-23 and 28-33

*Joao I* does not disclose, suggest or make obvious a method of risk classification that includes applying an anti-faking technique to item answers, as recited in independent claim 21. In fact, *Joao I*, like *DeTore*, is completely silent on issues of anti-faking or making use of prospective insuree's veracity to determine insurance rates. Thus, *Joao I* does not anticipate or make obvious independent claim 21. Further, *Joao I* does not anticipate or make obvious dependent claims 22-23 and 28-33 by virtue of their dependency as well as for the additional features they recite.



c. *Joao I Does Not Anticipate or Make Obvious Claims 24-27*

*Joao I* does not disclose, suggest or make obvious a method for risk classification of a prospective insured that includes accessing data regarding one or more **character traits of the prospective insured to develop character trait data**, as recited in independent claim 24. In fact, *Joao I* does not disclose using any character trait data, e.g., honesty, for any purpose related to risk classification. Thus, *Joao I* does not anticipate or make obvious independent claim 24. Further, *Joao I* does not anticipate or make obvious dependent claims 25-27 by virtue of their dependency as well as for the additional features they recite.

**3. U.S. Pat. No. 6,283,761 to *Joao* ("*Joao II*")**

*Joao II* discloses an apparatus and method for providing healthcare information to entities including a healthcare payer and a healthcare insurer. See, Abstract. In operation, the *Joao II* methods and apparatus can use a number of databases 10, 20H, 30H, 40, and 50H obtained from various patients, individuals, providers, payers, and intermediaries. These databases are capable of containing any of statistical data, information regarding diagnoses and alternate diagnoses, treatment success and failures and information regarding misdiagnoses. See, col. 19, line 54+.

Other databases, e.g., database 10H, can contain a large wealth of information including patient name, patient identification information, patient social security number or other identification information, date of birth, doctors or providers, therapists, nutritionists, insurance or payer information, group insurance information, group health insurance information, life insurance information, disability insurance information, patient address, phone number, e-mail

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and/or other contact information, medical history, psychological history, dental history, family history, family medical, psychological, and/or dental history, insurance coverage, insurance co-payment and/or deductible information, insurance information, insurance claim procedures, insurance claim forms, doctor or provider appointment schedules, past treatments, past diagnosis, symptoms, insurance claim forms, employer information, lifestyle information, treatment plans, treatment progress, broker/agent/intermediary information, education information, age, sex, marital status, employee benefits information, types or services and/or treatments needed, and any other data and/or information regarding the patient which would be needed and/or desired in order to perform any and/or all of the functions, services and/or operations described herein.

See, col. 16, line 33+

Database 10H can also contain healthcare and/or medical video, image, and/or audio, data and/or information, such as, for example, x-rays, Magnetic Resonant Images (MRI), CAT scans, digital x-ray files, digital Magnetic Resonant Imaging (MRI) files, digital CAT scan files, and/or any other video, imaging, and/or audio, healthcare data and/or information which can be utilized by healthcare providers, payers, intermediaries, patients, and/or other users of the present invention. See, col. 16, line 33+

a. Joao II Does Not Anticipate or Make Obvious Claims 1-20

Joao II does not disclose, suggest or make obvious a method of risk classification related to any of (1) automobile insurance, (2) insurance covering malpractice of a medical professional, (3) worker's compensation insurance, (4) accident insurance and (5) a likelihood of filing an

insurance claim, as is recited in independent claim 1 and similarly recited in independent claims 11, 12, 13, 14, 17 and 18.

To the contrary, while *Joao II* is repleat with language about providing information to insurance companies and payers (see, Abstract) the only type of insurance companies mentioned in *Joao II* are those related to health and life insurance. Further, unlike *Joao I*, unlike *Joao II* makes no mention of questionnaires that incorporate statements arguably related to personality trait data. Thus, *Joao II* does not provide for the deficiencies of *Joao I* (or *DeTore*).

Accordingly, *Joao II* does not anticipate or make obvious independent claims 1, 11-14, 17 and 18. Further, *Joao II* does not anticipate or make obvious dependent claims 2-10, 15-16 and 19-20 by virtue of their dependency as well as for the additional features they recite.

b. *Joao II* Does Not Anticipate or Make Obvious Claims 21-23 and 28-33

*Joao II* does not disclose, suggest or make obvious a method of risk classification that includes applying an anti-faking technique to item answers, as recited in independent claim 21. In fact, as with *Joao I*, *Joao II* is completely silent on issues of anti-faking or determining an insured's veracity via questionnaire anti-faking techniques. Thus, *Joao II* does not provide for the deficiencies of *Joao I*. Accordingly, *Joao II* does not anticipate or make obvious independent claim 21. Further, *Joao II* does not anticipate or make obvious dependent claims 22-23 and 28-33 by virtue of their dependency as well as for the additional features they recite.

c. *Joao II Does Not Anticipate or Make Obvious Claims 24-27*

*Joao II*, as with *Joao I*, does not disclose, suggest or make obvious a method for risk classification of a prospective insured that includes accessing data regarding one or more character traits of the prospective insured to develop character trait data, as recited in independent claim 24. Thus, *Joao II* does not provide for the deficiencies of *Joao I* (or *DeTore*). Accordingly, *Joao II* does not anticipate or make obvious independent claim 24. Further, *Joao II* does not anticipate or make obvious dependent claims 25-27 by virtue of their dependency as well as for the additional features they recite.

4. **U.S. Pat. No. 4,627,818 to Von Fellenberg**

*Von Fellenberg* relates to a psychotechnological method and device for detecting the traits of a human test subject. (col. 1: 6-10) Specifically, the method uses questionnaires to obtain behavioral and values information. Several sets of questionnaires are formulated, each set being related to at least one trait. The questionnaires in a set are divided into two groups which contain several pairs of complementary statements, each pair probing the same point from different perspectives. (Abstract) The test subject is judged by his or her responses. The responses are weighed groupwise by means of predetermined factors which produce response scores which are added together per group to provide a group test score. (col. 1: 33-37) From this, the test subject's traits can be determined. (Abstract)

*Von Fellenberg* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific

statements recited in claims 11 and 12. Thus, *Von Fellenberg* does not provide for the deficiencies of any of the above-mention references.

**5. U.S. Pat. No. 4,730,253 to Gordon**

*Gordon* is directed to the diagnosis of deficits in attention and behavioral inhibition in children, and is particularly directed to a system for administering objective tests whereby hyperactivity, attention deficit disorders and learning problems can be assessed. (col. 1: 10-15) *Gordon* uses an electronic device that is programmed to generate a sequence of test patterns to test an individual's responses. The individual is asked to respond to the test patterns according to predetermined scenarios, such as pushing certain buttons when a series of certain symbols appear. (col. 3: 49-57) The individual's responses are recorded and scored. The result is then compared with normative data and an analysis can therefore be made. (Abstract)

*Gordon* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Gordon* does not provide for the deficiencies of any of the above-mention references.

**6. U.S. Pat. No. 4,895,518 to Arnold et al.**

*Arnold et al.* relates to an evaluation system which employs a computer for assessing the diagnostic reasoning skills of an individual. (col. 1: 6-10) The individual is provided with

several scenarios and is asked to identify problems associated with each scenario. Evaluation is then made according to the answers provided by the individual. (Abstract)

*Arnold et al.* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus *Arnold* does not provide for the deficiencies of any of the above-mentioned references.

**7. U.S. Pat. No. 5,551,880 to Bonnstetter et al.**

*Bonnstetter et al.* relates to a method of predicting an individual's ability for fitting a particular job or task. (Abstract) Specifically, the method utilizes questionnaires to obtain behavioral and values information to predict the individual's ability and capability to fit a particular job. (col. 3: 1-5) The questionnaires are categorized into several categories related to certain abilities, such as math, fine arts, social studies, etc., and to behavior, such as economic, aesthetic, political, etc. (col. 8: 7-50) An overall rating is given to each category according to the test taker's answers. The patent then identifies the characteristics that a specific job or task needs and compares the test taker's overall rating in each category with those identified characteristics for the particular type of job. Thus, the test taker's ability to fit into a particular job is determined.

*Bonnstetter et al.* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific

statements recited in claims 11 and 12. Thus, *Bonnstetter* does not provide for the deficiencies of any of the above-mention references.

**8. U.S. Pat. No. 5,696,981 to Shovers**

*Shovers* is directed to a method and apparatus for determining a subject's personality using the subject's responses to a predefined quiz. (Abstract) *Shovers* uses a questionnaire to obtain a subject's answers. Then a computer system is used to analyze whether certain key words appear in the subject's answer. (col 7: 46-53) Each keyword that appears is assigned a weight according to a predetermined equation. (col 8: 9-20) The overall weight of the subject can then be obtained and a type of personality is assigned to the subject accordingly. (Abstract)

*Shovers* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Shovers* does not provide for the deficiencies of any of the above-mention references.

**9. U.S. Pat. No. 5,848,396 to Gerace**

*Gerace* pertains to a method and apparatus for using time sensitive reference information to determine the behavioral profile of a computer user in using the computer. (col 2: 1-6) The behavioral profile is obtained by monitoring and recording the user's computer activity during the user's viewing of certain advertisements. The behavioral profile includes the user's preferred

topic, habits, language, lifestyle, etc. Then, information matching the user's profile and preference is provided to the user.

*Gerace* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Gerace* does not provide for the deficiencies of any of the above-mention references.

**10. U.S. Pat. No. 5,919,046 to Hull**

*Hull* discloses a hazard perception test system for assessing a test taker's perception and reaction to hazards. Specifically, the invention displays a sequence of images of a scene to be viewed by a test taker and in which at least one hazard appears. The test taker's reaction to the hazard will be recorded and her ability to respond to the hazard is determined accordingly. (col 1: 43-56)

*Hull* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Hull* does not provide for the deficiencies of any of the above-mention references.



**11. U.S. Pat. No. 5,933,800 to Zen et al.**

*Zen et al.* pertains to a word selecting apparatus for word processing, which selectively generates words according to a user's past input habit. *Zen et al.* uses a user habit unit to monitor and record the user's past input habit, specifically, the words that the user used to correct past input errors. Once the same error occurs, the apparatus generates meaningful words that the user had used to correct the error. (Abstract) Therefore, it reduces the efforts to input the correct word again.

*Zen et al.* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Zen* does not provide for the deficiencies of any of the above-mentioned references.

**12. U.S. Pat. No. 5,940,801 to Brown**

*Brown* discloses a method and diagnostic measurement apparatus for psychological conditions. Specifically, *Brown* uses an electronic device that is programmed to produce a video display that prompts a patient or user to interactively physically operate one or more switches. The patient's responses are recorded during the interactive diagnostic assessment procedure and the information is then analyzed to assess the patient's psychological condition. (Abstract)

*Brown* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements

recited in claims 11 and 12. Thus, *Brown* does not provide for the deficiencies of any of the above-mention references.

**13. U.S. Pat. No. 5,991,735 to Gerace (Gerace II)**

*Gerace II* pertains to a method and apparatus for using time sensitive reference information to determine the profile of a computer user and determine the behavioral profile of the user in using the computer. (col 2: 10-22) The behavioral profile is formed by recording the user's computer activity and viewing habits during the user's viewing of certain advertisements. The behavioral profile includes the user's preferred topic, habits, language, lifestyle, etc. Then, information matching the user's profile and preference is provided to the user.

*Gerace II* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Gerace II* does not provide for the deficiencies of any of the above-mention references.

**14. U.S. Pat. No. 6,002,994 to Lane et al.**

*Lane et al.* discloses a method for monitoring a user's activities within a selected environment, which comprises monitoring and reporting the condition of a user in a selected environment, monitoring the time, frequency and duration of use of each of a plurality of selected elements. (Abstract) The selected elements are selected from physiological measurements, such as body temperature and heart rate, and from non-physiological

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measurements, such as methane from spoiling food or ammonia from spilled urine. (col. 4: 1-20)

The data is then transmitted to a remote site.

*Lane et al.* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Lane* does not provide for the deficiencies of any of the above-mention references.

**15. U.S. Pat. No. 6,030,226 to Hersh**

*Hersh* relates to a method and system to perform psychological and educational assessment of subjects using multi-media technology. (col. 3: 41-43) A multi-media computer is used to generate psychological evaluative probing and a human subject can respond to the psychological evaluative probing. The responses are then collected and evaluated by a tester.

*Hersh* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *Hersh* does not provide for the deficiencies of any of the above-mention references.

**16. U.S. Pat. No. 6,064,970 to McMillan et al.**

*McMillan et al.* is directed to a method and system of determining a cost of automobile insurance based upon monitoring, recording and communication data representative of operator

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and vehicle driving characteristics. (Abstract) The data includes observable information, such as total driving time, number of sudden braking situations, etc.

*McMillan et al.* fails to disclose, however, the use of personality traits of a prospective insured (required in claims 1-10, 13-20), character traits of a prospective insured (required by claims 24-27), anti-faking techniques (required by claims 21-23 and 28-33) and the specific statements recited in claims 11 and 12. Thus, *McMillan* does not provide for the deficiencies of any of the above-mention references.

### **Conclusion**

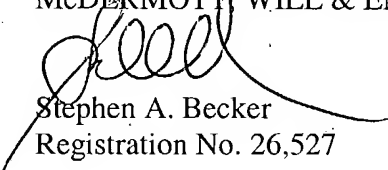
Applicants believe that this application is in condition for allowance, and requests favorable consideration. However, the Examiner is invited to contact Applicants' representative listed below to advance prosecution, if any issues remain.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY



Stephen A. Becker  
Registration No. 26,527

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
(202)756-8000 BYM:SAB:jdj:mlw  
Facsimile: (202)756-8087  
**Date: June 23, 2003**